

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF VIRGINIA  
3                   RICHMOND DIVISION

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6     GOLDEN BETHUNE-HILL, et al.        :  
7     vs.                                      : Civil Action No.  
8     VIRGINIA STATE BOARD OF                : 3:14CV852  
9     ELECTIONS, et al.                      :  
10    :  
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13                   COMPLETE TRANSCRIPT OF THE CONFERENCE CALL  
14                   BEFORE THE HONORABLE ROBERT E. PAYNE  
15                   UNITED STATES DISTRICT JUDGE

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17     APPEARANCES:  
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## PROCEDINGS

THE COURT: Hello. This is Bethune-Hill against Virginia State Board of Elections, civil 3:14CV852. If you will, start with the plaintiff and say who is here representing whom, and each time you speak, please give your name.

MS. KHANNA: This is Abha Khanna representing the plaintiffs.

MR. TROY: Judge, this is Tony Troy on behalf of all the defendants.

MS. McKNIGHT: Your Honor, this is Kate McKnight, and along with Mark Braden and Jennifer Walrath, we represent the intervenor defendants.

THE COURT: All right. I've reviewed your proposed joint initial pretrial scheduling and discovery plan, and I have some questions about it for you. First, you've done your Rule 26 exchanges. Now, what does the case look like now that you've had those exchanges in terms of the amount of discovery that you think you're going to need to do, depositions, et cetera, plaintiff?

MS. KHANNA: Yes, Your Honor. This is Abha Khanna. I believe that looking at everybody's initial disclosures pursuant to Rule 26(a)(1), I think we all have a similar idea that the kinds of witnesses we're going to

1 voting -- racialized voting patterns.

2 THE COURT: Has he ever been involved in any  
3 Virginia cases before?

4 MS. KHANNA: I don't believe he's been involved  
5 in any Virginia cases, but he's certainly been involved in  
6 redistricting cases.

7 THE COURT: Defendants and intervenor defendants,  
8 how many experts are you having and who are they? You are  
9 due to provide yours on April 10th. Surely you know who  
10 they are.

11 MR. BRADEN: Your Honor, it's Mark Braden for the  
12 defendant intervenors. I think it's likely we will call  
13 Dr. Tom Brunell.

14 THE COURT: Tom who?

15 MR. BRADEN: Thomas Brunell.

16 THE COURT: How do you spell that? B-u-r --

17 MR. BRADEN: B-r-u-n-e-l-l.

18 THE COURT: Brunell, okay.

19 MR. BRADEN: And I believe he testified in the  
20 Wise case, if my memory serves me correct, ten years ago  
21 in Virginia.

22 THE COURT: Anybody else?

23 MR. BRADEN: And Dr. Tom Hofeller.

24 THE COURT: How do you spell that name?

25 MR. BRADEN: Give me one second here so I am

1 telling you right. H-o-f-e-l-l-e-r.

2 THE COURT: H-o-f-e-l-l-e-r?

3 MR. BRADEN: Yes.

4 THE COURT: Are both Toms Thomas?

5 MR. BRADEN: They are both Thomas, yes.

6 THE COURT: So now you know who each other's  
7 experts are. Now, here's the question: You all have  
8 talked to your experts. You raised the question before  
9 that there were 12 districts that needed to be dealt with.  
10 Have your experts committed to give you what you need to  
11 try this case by July 7th as to the 12 districts? Ms.  
12 Khanna?

13 MS. KHANNA: Your Honor, if I understood the  
14 question correctly, is our expert prepared to testify as  
15 to each of the 12 districts or as to our case in total by  
16 the July 7th trial date, and the answer to that is yes.

17 THE COURT: And the report will have whatever  
18 he's going to say in it on those topics on March 11th; is  
19 that right?

20 MS. KHANNA: Yes, Your Honor. That report will  
21 address his testimony in this case.

22 THE COURT: All right. Are the defendants  
23 putting on any experts? I know Mr. Braden spoke for the  
24 intervenor defendants. Are the defendants putting on any  
25 experts?

1                   MR. TROY: Your Honor, we are discussing an  
2 expert on compactness issues, but we have not made a final  
3 decision at this time.

4                   THE COURT: Notify them who the compactness  
5 expert is by -- can you do that by Monday?

6                   MR. TROY: Yes, Your Honor.

7                   THE COURT: And that is what date? The 2nd of  
8 March.

9                   MR. TROY: I don't have a calendar in front of  
10 me, Judge. I apologize.

11                  THE COURT: That's all right. I think that's  
12 right. It is. Okay, so you all --

13                  MR. BRADEN: Your Honor, it's Mark Braden for the  
14 defendant intervenors. Dr. Brunell is most certainly  
15 locked in and is prepared to testify on these dates and  
16 have his expert report done in the manner set forth in the  
17 proposed order.

18                  Dr. Hofeller, we've spoken with him, and we  
19 anticipate he'll be able to do this, but he has -- he's  
20 involved in one of the North Carolina -- actually a couple  
21 of the North Carolina election cases, and he's presently  
22 trying to juggle those to make sure that this will work.  
23 If we do not use him as a witness, we will -- we've been  
24 in contact with Dr. Jonathan Katz from Cal Tech, and he's  
25 willing to do it if we cannot make Dr. Hofeller's schedule